

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MS AMLIN MARINE N.V. t/z Lead Yacht
acting on behalf of MS Amlin Insurance SE;
SYNDICATE 0457; SYNDICATE 1969;
SYNDICATE 2791; SYNDICATE 5000;
AND CONVEX INSURANCE U.K. LTD.,
UNDERWRITERS AT LLOYD'S,
LONDON Subscribing to Policy
B1098M203407,

Plaintiffs,

v.

DELTA MARINE INDUSTRIES, INC., a
Washington corporation; MARINE
TRAVELIFT, INC., a Wisconsin corporation;
KENDRICK EQUIPMENT (USA) LLC, a
Washington corporation, and KENDRICK
EQUIPMENT, LTD., a Canadian corporation,
ARXCIS, INC., a Washington corporation,
Defendants.

CASE NO. 2:23-cv-14

ORDER DENYING ENTRY OF
PROTECTIVE ORDER

This matter comes before the Court on the Parties' Joint Motion for Entry of Protective Order and Proposed Order. Dkt. No. 33. The Court has considered the motion and proposed order and hereby DENIES the motion without prejudice for the reasons stated below.

This Court may issue a protective order upon a showing of good cause. Fed. R. Civ. P. 26(c). Although the parties may agree upon confidentiality among themselves, if they request Court involvement, the proposed order must be narrowly drawn, identifying both the type of information that is to be protected and, if not obvious, the reason such protection is warranted. *See*

1 *Jepson, Inc. v. Makita Elec. Works, Ltd.*, 30 F.3d 854, 858 (7th Cir. 1994) (“[E]ven if the parties
2 agree that a protective order should be entered, they still have the burden of showing that good
3 cause exists for issuance of the order.”).

4 Here, the parties have asked the Court to grant them broad discretion to designate
5 documents as “confidential,” but their definition of “confidential materials” includes blanket
6 protections for documents containing “personal, private, [and] sensitive” records and “protected
7 business information.” These broad categories lack specificity and are in contravention of the
8 Federal and Local Civil Rules. *See* Fed. R. Civ. P. 26(c); *see also* Model Stipulated Protective
9 Order at ¶ 2 (“[D]o not list broad categories of documents such as ‘sensitive business material.’”).
10 Any protective order entered by the Court must be narrowly drawn and clearly identify the
11 document or type of documents subject to the order.

12 Next, the proposed order also strikes Exhibit A to the model order, which is a certification
13 for certain persons viewing confidential information to “acknowledge[] and agree[] to be bound”
14 by the protective order. The parties offer no explanation for deviating from the model order in this
15 way.

16 Finally, “[t]here is a strong presumption of public access to the court’s files,” but the
17 proposed order would grant the parties unilateral authority to determine which information
18 becomes public by redacting *any* information, as opposed to “sensitive information,” not necessary
19 for the Court to review as contemplated by the Local Rules. *See* 5(g)(1)(A)-(B). The Court declines
20 to ratify the language in the proposed order and suggests that the parties revert to the language in
21 the model order.

22 The parties may resubmit a proposed protective order if they remedy the deficiencies
23 identified in this Order.

24 Dated this 6th day of June, 2023.



Jamal N. Whitehead
United States District Judge

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